

“MAKING A GOOD BILL BETTER”

THE HATCH / FRIST / MILLER FAIR ACT (S. 2290)

Summary of Improvements from S. 1125

IMPROVEMENTS FOR VICTIMS

- Quicker Start-Up for Claims Processing. The new bill starts the Fund operating more quickly by authorizing (a) interim rulemaking and payment authority, (b) appointment of an interim Administrator, and (c) more than \$20 billion in funding in the first three years alone to account for existing claims in the tort system.
- Claims Processing Within the Department of Labor. An administrator in the Department of Labor will manage and process the Fund with specialized committees and panels. The new claims processing system offers faster review of all claims, and expedited review of exigent claims, such as mesothelioma.
- Increased Claims Values. – Half of the award levels are increased by an average of more than twenty (20%) percent.
- Mesothelioma Research. The new bill provides \$50 million of fund monies in the first five (5) years of the Fund for mesothelioma research.

IMPROVEMENTS FOR FUNDING STABILITY

- Guaranteed Funding. Insurers and defendants have guaranteed their respective annual minimum payments to address transparency concerns over Fund liquidity. S.2290 requires insurers and defendants to contribute \$46.025 billion and \$57.5 billion respectively. The new funding agreement also provides \$10 billion in contingent funding.
- Better Inequity Adjustments. The new bill increases the annual assessment adjustment account to up to \$300 million per year (and allows for carryovers from previous years for annual unused amounts). Inequity applicants will also be able to seek judicial review for their determinations.
- Expanded Borrowing Authority. The borrowing authority of the Administrator has been expanded to authorize borrowing against 7 years of expected income into the Fund, rather than only one, as provided under S. 1125.
- More Deliberative Sunset Procedures. S. 2290 implements a more deliberative sunset procedure that gives the Administrator greater flexibility in determining short-term Fund shortages and authority to preserve the integrity of the Fund as long as possible. And in the event of a sunset, the revised provision will require reversion to a tort system confined to federal court.